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THOMAS, JASON				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/688,144

Applicant(s)

DUDKIEWICZ ET AL.

Examiner

Jason Thomas

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2003.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-16 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 17 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 10/17/03, 04/13/07
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Inventor's Patent Application
6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
1. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art in view of Potrebic (US Patent No. 6,798,971 B2).

Regarding claims 1 and 5: Applicant discloses a method realized through a programmable device comprising a computer readable medium storing programming code for controlling the device to perform processing (see [0005] for digital video receiver devices with data processing and storage capabilities) comprising:

storing program metadata that includes timing and descriptive data for television programs (see [fig. 3], [0006], [0010]);

in response to a command, presenting a user interface that displays characteristics represented in the metadata of a program or segment (see [figs. 1 & 2], [0005], [0006] for an IPG able to receive commands from the user which displays program information);

receiving user selections with respect to the displayed characteristics (see [0007] for receiving user selections);

and updating viewer preferences in accordance with the user selections (see [0007] for updating viewing preferences).

While applicant's admitted prior art teaches all of the aforementioned elements with respect to its application to programs, the admitted prior art does not explicitly teach applying said elements to segments.

Potrebic teaches dividing programs into segments to enable viewers to access program segments quickly and easily in the same manner as a viewer would interact with a program (see [fig. 7], [abstract], [column 2 lines 24-37], [column 6 lines 20-27], [column 7 lines 46-52], [column 13 lines 26-41] where the data is equivalent to metadata in that it is a computer-readable data which contains information regarding the segment).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to use segments, as taught in Potrebic, in the same or similar manner as programs, as taught in applicant's admitted prior art, because programs are made up of segments (i.e. program segments) and providing metadata for segments allows a viewer to quickly and easily view a segment of

interest and the related data for that segment (see Potrebic [column 2 lines 35-37]).

Regarding claim 2: Applicants admitted prior art discloses wherein the program or segment for which characteristics are displayed is a currently viewed program (see [0009] for displaying an interactive program banner over the image of the viewed program).

Regarding claim 3 Applicant's admitted prior art discloses wherein the program or segment for which characteristics are displayed is a currently viewed segment (see [0009] for displaying an interactive program banner over the image of the viewed program which inherently includes all program segments).

Regarding claim 4: Applicant's admitted prior art discloses wherein the characteristics comprise at least one of categories and key words (see [0008], [0010] where a program genre is synonymous with a category and it is disclosed that program genre and keywords are stored as characteristics).

Regarding claim 6: Applicant's admitted prior art discloses a method in a programmable device, comprising:

storing program metadata that includes timing and descriptive data for television programs (see [fig. 3], [0006], [0010]);

and in response to a command, updating viewer preferences stored by the device in accordance with program characteristics represented in the program metadata of a currently viewed program (see [0007], [0009] for updating viewing

preferences in response to a command and being capable of doing so for a currently viewed program).

While applicant's admitted prior art teaches all of the aforementioned elements with respect to its application to programs, the admitted prior art does not explicitly teach applying said elements to segments.

Potrebic teaches dividing programs into segments to enable viewers to access program segments quickly and easily in the same manner as a viewer would interact with a program (see [fig. 7], [abstract], [column 2 lines 24-37], [column 6 lines 20-27], [column 7 lines 46-52], [column 13 lines 26-41] where the data is equivalent to metadata in that it is a computer-readable data which contains information regarding the segment).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to use segments, as taught in Potrebic, in the same or similar manner as programs, as taught in applicant's admitted prior art, because programs are made up of segments (i.e. program segments) and providing metadata for segments allows a viewer to quickly and easily view a segment of interest and the related data for that segment (see Potrebic [column 2 lines 35-37]).

Regarding claims 7 and 11: Applicant discloses a method realized through a programmable device comprising a computer readable medium storing programming code for controlling the device to perform processing (see [0005]

for digital video receiver devices with data processing and storage capabilities) comprising:

storing program metadata that includes timing and descriptive data for programs (see [fig. 3], [0006], [0010]);

in response to a command, presenting a user interface that displays characteristics represented in the metadata of a program or segment (see [figs. 1 & 2], [0005], [0006] for an IPG able to receive commands from the user which displays program information);

receiving user selections with respect to the displayed characteristics (see [0007] for receiving user selections);

and updating viewer preferences in accordance with the user selections (see [0007] for updating viewing preferences);

and identifying and displaying to the user additional programs having characteristics in common with the selected characteristics (see [0008] for a guide which can be filtered to identify and display programs having selected characteristics).

While applicant's admitted prior art teaches all of the aforementioned elements with respect to its application to programs, the admitted prior art does not explicitly teach applying said elements to segments.

Potrebic teaches dividing programs into segments to enable viewers to access program segments quickly and easily in the same manner as a viewer would interact with a program (see [fig. 7], [abstract], [column 2 lines 24-37],

[column 6 lines 20-27], [column 7 lines 46-52], [column 13 lines 26-41] where the data is equivalent to metadata in that it is a computer-readable data which contains information regarding the segment).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to use segments, as taught in Potrebic, in the same or similar manner as programs, as taught in applicant's admitted prior art, because programs are made up of segments (i.e. program segments) and providing metadata for segments allows a viewer to quickly and easily view a segment of interest and the related data for that segment (see Potrebic [column 2 lines 35-37]).

Regarding claim 8: Applicants admitted prior art discloses wherein the program or segment for which characteristics are displayed is a currently viewed program (see [0009] for displaying an interactive program banner over the image of the viewed program).

Regarding claim 9: Applicant's admitted prior art discloses wherein the program or segment for which characteristics are displayed is a currently viewed segment (see [0009] for displaying an interactive program banner over the image of the viewed program which inherently includes all program segments).

Regarding claim 10: Applicant's admitted prior art discloses wherein the characteristics comprise at least one of categories and key words (see [0008], [0010] where a program genre is synonymous with a category and it is disclosed that program genre and keywords are stored as characteristics).

Regarding claim 12: Applicant's admitted prior art discloses a method in a programmable device, comprising:

storing program metadata that includes timing and descriptive data for television programs (see [fig. 3], [0006], [0010]);

in response to a command, identifying and displaying to the user additional programs having characteristics in common with characteristics represented in the metadata of a currently viewed program segment (i.e. a segment is an inherent part of a program) (see [0008] for a guide which can be filtered to identify and display programs having selected characteristics; see also [0009] where information regarding the currently viewed program can be accessed as well).

While applicant's admitted prior art teaches all of the aforementioned elements with respect to its application to programs, the admitted prior art does not explicitly teach applying said elements to segments.

Potrebic teaches dividing programs into segments to enable viewers to access program segments quickly and easily in the same manner as a viewer would interact with a program (see [fig. 7], [abstract], [column 2 lines 24-37], [column 6 lines 20-27], [column 7 lines 46-52], [column 13 lines 26-41] where the data is equivalent to metadata in that it is a computer-readable data which contains information regarding the segment).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to use segments, as taught in Potrebic, in the same or

similar manner as programs, as taught in applicant's admitted prior art, because programs are made up of segments (i.e. program segments) and providing metadata for segments allows a viewer to quickly and easily view a segment of interest and the related data for that segment (see Potrebic [column 2 lines 35-37]).

2. Claims 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art in view of Potrebic and Goldman (U.S. Pre-Grant Pub 2002/0112239 A1).

Regarding claim 13: Applicant's admitted prior art discloses a method in a video receiver device, comprising:

storing program metadata that includes timing and descriptive data for television programs and segment metadata that includes timing and descriptive data for individual segments of television programs (see [fig. 3], [0006], [0010]);

monitoring viewing of programs (see [0005], [0006], [0007], [0009] where displaying information about a program being viewed using an information banner is indicative of monitoring viewing of programs);

While applicant's admitted prior art teaches all of the aforementioned elements with respect to its application to programs, the admitted prior art does not explicitly teach: applying said elements to program segments; nor does the prior art explicitly teach producing viewing habit data from said stored metadata, the viewing habit data indicating the programs and individual program segments viewed.

Potrebic teaches dividing programs into segments to enable viewers to access program segments quickly and easily in the same manner as a viewer would interact with a program (see [fig. 7], [abstract], [column 2 lines 24-37], [column 6 lines 20-27], [column 7 lines 46-52], [column 13 lines 26-41] where the data is equivalent to metadata in that it is a computer-readable data which contains information regarding the segment).

Goldman teaches gathering viewing behavior information which includes any viewer activity associated with television programs including tuning and display of a television program that may be viewed in real time, recording a television program, etc. (see [abstract], [0008], [0022], [0035]).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to monitor the viewers' viewing habits, as taught in Goldman, based on the which segments were viewed, as taught in Potrebic, in the same or similar manner as programs where the information is stored in the metadata, as taught in applicant's admitted prior art, because viewing habit information provides a means for locating programs of interest more quickly and accurately (see Goldman [0005], [0009]); and furthermore because programs are made up of segments (i.e. program segments) and providing metadata for segments allows a viewer to quickly and easily view a segment of interest and the related data for that segment (see Potrebic [column 2 lines 35-37]).

Regarding claims 14 and 15: Applicant's admitted prior art does not disclose wherein the viewing habit data further indicates programs and individual

program segments recorded or recorded programs and program segments viewed.

Potrebic teaches dividing programs into segments to enable viewers to access program segments quickly and easily in the same manner as a viewer would interact with a program (see [fig. 7], [abstract], [column 2 lines 24-37], [column 6 lines 20-27], [column 7 lines 46-52], [column 13 lines 26-41] where the data is equivalent to metadata in that it is a computer-readable data which contains information regarding the segment).

Goldman teaches gathering viewing behavior information which includes any viewer activity associated with television programs including tuning and display of a television program that may be viewed in real time, recording a television program, etc. (see [abstract], [0008], [0022], [0035]).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to gather all of the viewers' viewing behaviors, as taught in Goldman, based on segments, as taught in Potrebic, in the same or similar manner as programs, as taught in applicant's admitted prior art, because viewing habit information provides a means for locating programs of interest more quickly and accurately (see Goldman [0005], [0009]); and furthermore because programs are made up of segments (i.e. program segments) and providing metadata for segments allows a viewer to quickly and easily view a segment of interest and the related data for that segment (see Potrebic [column 2 lines 35-37]).

Regarding claim 16: Applicant's prior art does not teach wherein the method further comprises reporting the viewing habit data to an external system.

Goldman discloses wherein the method further comprises reporting the viewing habit data to an external system (see [fig. 1], [fig. 3], [0017], [0039], [0044], [p0045]).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to report the viewing habit data to an external system, as taught in Goldman, to assist the analysis of preference data, as taught in applicant's admitted prior art, because by reporting to an external or remote system viewing behavior from other viewers can be used to generate a more comprehensive report with comparative data (see Goldman [abstract]).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Thomas whose telephone number is (571) 270-5080. The examiner can normally be reached on Mon. - Thurs., 8:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Koenig can be reached on (571) 272-7296. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew Y Koenig/
Supervisory Patent Examiner, Art Unit 2623

J. Thomas